



Attorney Docket No.: P-2762-US3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): STEINER, Mitchell S. et al. Examiner: Not yet known

Serial No.: 10/807,517 Group Art Unit: 1614

Filed: March 24, 2004

Title: ISOLATED NUCELIC ACID ENCODING P-HYDE PROTEIN AND METHODS OF INDUCING SUSCEPTIBILITY TO INDUCTION OF CELL DEATH IN CANCER

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**COMMUNICATION**

Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Abandonment Under 37 CFR 1.53 (f) or (g) dated June 5, 2006, regarding the above-referenced application, Applicants hereby submit a petition requesting that the application be revived according to 37 CFR 1.137(b).

A response to the Notice of Missing Parts was prepared for submission on September 1, 2005 by the attorney of record. Due to clerical error, the response was not submitted on that date, though the attorney's docketing system was marked to indicate the response had been sent. In early April, the attorneys representing the Applicants noticed that a dated postcard of receipt from the USPTO was missing from the file of the above-referenced application. The attorneys then immediately filed the response to the Notice of Missing Parts on April 6, 2006. Applicants then received a Notice of Abandonment dated June 5, 2006 stating that the application had been abandoned due to a failure of applicants to reply to the Notice of Missing Parts in a timely manner.

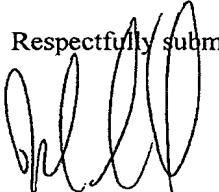
APPLICANT(S): STEINER, Mitchell S. et al.  
SERIAL NO.: 10/807,517  
FILED: March 24, 2004  
Page 2

Therefore, Applicants herein submit a petition to revive the above-referenced application on the grounds of unintentional delay. As required by 37 CFR 1.137(b), Applicants enclose:

- (1) a statement that the entire delay was unintentional,
- (2) the required reply to the Notice of Missing Parts, and
- (3) a petition fee of \$1,500.00.

Should the Commissioner have any question or comment as to the form, content or entry of this Communication, the Commissioner is requested to contact the undersigned at the telephone number below.

If any additional fees are due, the undersigned hereby authorizes the United States Patent and Trademark Office to charge them to Deposit Account 50-3355.

Respectfully submitted,  
  
\_\_\_\_\_  
Mark S. Cohen  
Attorney/Agent for Applicant(s)  
Registration No. 42,425

Dated: July 11, 2006

**Pearl Cohen Zedek Latzer, LLP**  
1500 Broadway, 12th Floor  
New York, New York 10036  
Tel: (646) 878-0800  
Fax: (646) 878-0801



PTO/SB/64 (08-00)

Approved for use through 10/31/2002. OMB 0851-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

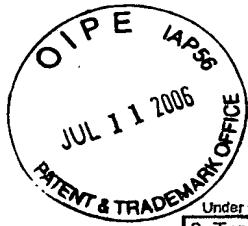
<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>		Docket Number (Optional) P-2762-US3
<p>First named inventor: <b>STEINER, Mitchell S. et al.</b></p> <p>Application No.: <b>10/807,517</b> Group Art Unit: <b>1614</b></p> <p>Filed: <b>March 24, 2004</b> Examiner: <b>Not yet known</b></p> <p>Title: <b>ISOLATED NUCLEIC ACID ENCODING P-HYDE PROTEIN AND METHODS OF INDUCING SUSCEPTIBILITY TO INDUCTION OF CELL DEATH IN CANCER</b></p>		
<p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450</p>		
<p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.</p>		
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extension of time actually obtained.</p>		
<p style="text-align: center;"><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</b></p>		
<p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none"><li>(1) Petition fee;</li><li>(2) Reply and/or Issue fee;</li><li>(3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and</li><li>(4) Statement that the entire delay was unintentional.</li></ul>		
<p>1. Petition fee</p> <p><input type="checkbox"/> Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input checked="" type="checkbox"/> Other than small entity - fee \$ <u><b>\$1500</b></u> (37 CFR 1.17(m))</p>		
<p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of <u>Response to Notice to File Missing Parts</u> (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p>		
<p>B. The issue fee of \$ _____</p> <p><input type="checkbox"/> has been paid previously on _____</p> <p><input type="checkbox"/> is enclosed herewith.</p>		

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

07/12/2006 EAREGAY1 00000030 503355 10807517

01 FC:1453 1500.00 DA



PTO/SB/64 (08-08)

Approved for use through 10/31/2002. OMB 0651-0031

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).
4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].
5.  Please charge my Deposit Account No. 50-3355 in the amount of \$1500 to cover the above fees.
- The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-3355.

18 June, 2006

Date

Signature

Telephone  
Number: ( 646 ) 878-0800

Mark S. Cohen 42,425  
Typed or printed name

Pearl Cohen Zedek Latzer, LLP  
1500 Broadway, 12th Floor  
New York, New York 10036

Enclosures:  Fee Payment

- Reply
- Terminal Disclaimer Form
- Small Entity Status Form
- Additional sheets containing statements establishing unintentional delay
-



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/807,517	03/24/2004	Mitchell S. Steiner	P-2762-US3

27130  
EITAN, PEARL, LATZER & COHEN ZEDEK LLP  
10 ROCKEFELLER PLAZA, SUITE 1001  
NEW YORK, NY 10020

CONFIRMATION NO. 3376

RECEIVED  
EXAMINER  
04 AUG 2005  
Pearl Cohen Zedek Latzer



Date Mailed: 08/02/2005

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE  
DISCLOSURES

*Filing Date Granted*

Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

To Download Patentin Software, visit <http://www.uspto.gov/web/patents/software.htm>  
For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (571) 272-0951
- For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.
- Send e-mail correspondence for Patentin Software Program Help @ [ebc@uspto.gov](mailto:ebc@uspto.gov)

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P O Box 1450  
Alexandria VA 22313-1450

*A copy of this notice MUST be returned with the reply.*

*J. Repler*

Office of Initial Patent Examination (703) 308-1202  
PART 1 - ATTORNEY/APPLICANT COPY

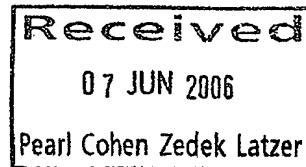


## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/807,517	03/24/2004	Mitchell S. Steiner	P-2762-US3

49443  
PEARL COHEN ZEDEK, LLP  
1500 BROADWAY 12TH FLOOR  
NEW YORK, NY 10036



CONFIRMATION NO. 3376  
ABANDONMENT/TERMINATION  
LETTER

Date Mailed: 06/05/2006

## NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/02/2005.

- The reply received on 04/06/2006 was untimely.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37

CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (571) 272-3282.

*A copy of this notice MUST be returned with the reply.*

*P138*

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199, or 1-800-972-6382  
PART 1 - ATTORNEY/APPLICANT COPY